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10 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. R-2089

13 WAYNE ALBERT BLEYLE, R.C.P.  
14 10319 Annie Lane  
Santee, CA 92071

OAH No.

**A C C U S A T I O N**

15 Respiratory Care License No. 6855

16 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Respiratory Care Board of California,  
22 Department of Consumer Affairs.

23 2. On or about July 12, 1985, the Respiratory Care Board issued Respiratory  
24 Care License No. 6855 to WAYNE ALBERT BLEYLE, R.C.P. (Respondent). The Respiratory  
25 Care License expired on June 30, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“....”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.”

“....”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).”

“....”

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1           7.       Section 3752 of the Code states:

2           “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
3       made to a charge of any offense which substantially relates to the qualifications,  
4       functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
5       the meaning of this article. The board shall order the license suspended or revoked, or  
6       may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
7       conviction has been affirmed on appeal or when an order granting probation is made  
8       suspending the imposition of sentence, irrespective of a subsequent order under Section  
9       1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
10      enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
11      accusation, information, or indictment.”

12          8.       Section 3752.6 of the Code states:

13          “For purposes of Division 1.5 (commencing with Section 475), and this chapter  
14      [the Respiratory Care Practice Act], a crime involving sexual misconduct or attempted  
15      sexual misconduct, whether or not with a patient, shall be considered a crime  
16      substantially related to the qualifications, functions, or duties of a respiratory care  
17      practitioner.”

18          9.       Section 3752.7 of the Code states:

19          “Notwithstanding Section 3750, any proposed decision or decision issued  
20      under this chapter in accordance with the procedures set forth in Chapter 5  
21      (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
22      Government Code, that contains any finding of fact that the licensee or registrant  
23      engaged in any act of sexual contact, as defined in Section 729, with a patient, or  
24      has committed an act or been convicted of a sex offense as defined in Section  
25      44010 of the Education Code, shall contain an order of revocation. The revocation  
26      shall not be stayed by the administrative law judge. For purposes of this section,  
27      the patient shall no longer be considered a patient of the respiratory care  
28      practitioner when the order for respiratory procedures is terminated, discontinued,

1 or not renewed by the prescribing physician and surgeon.”

2 10. California Code of Regulations, title 16, section 1399.370, states:

3 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
4 shall be considered to be substantially related to the qualifications, functions or duties of a  
5 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform  
6 the functions authorized by his or her license or in a manner inconsistent with the public health,  
7 safety, or welfare. Such crimes or acts shall include but not be limited to those involving the  
8 following:

9 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
10 abetting the violation of or conspiring to violate any provision or term of the Act.”

11 “....”

12 “(e) Conviction of a crime involving lewd conduct, prostitution or solicitation  
13 thereof, or pandering and/or indecent exposure, as defined by the Penal Code.”

#### 14 COST RECOVERY

15 11. Section 3753.5, subdivision (a) of the Code states:

16 "In any order issued in resolution of a disciplinary proceeding before the board,  
17 the board or the administrative law judge may direct any practitioner or applicant found to have  
18 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
19 investigation and prosecution of the case."

20 12. Section 3753.7 of the Code states:

21 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
22 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
23 administrative, filing, and service fees.”

24 13. Section 3753.1 of the Code states:

25 "(a) An administrative disciplinary decision imposing terms of probation may  
26 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
27 associated with monitoring the probation. "

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Crimes)**

3 9. Respondent is subject to disciplinary action under sections 3750, as  
4 defined by section 3750, subdivisions (d) and (g), and 3752, in that he was convicted of crimes  
5 substantially related to the qualifications, functions, or duties of a respiratory care practitioner.  
6 The circumstances are as follows:

7 (A) In early 2006, the San Diego Police Department's Internet Crimes Against  
8 Children Unit (ICAC) identified a computer at the home of respondent as distributing known  
9 child pornography video files.

10 (B) On or about March 2, 2006, officers from the Federal Immigration and  
11 Customs Enforcement Unit (ICE) and ICAC executed a search warrant for respondent's  
12 residence. Respondent was interviewed during the execution of the search warrant. Respondent  
13 admitted to molesting at least 5 patients as an employee of the Convalescent Unit at Children's  
14 Hospital. Officers obtained several photographs from respondent's computer, previously taken  
15 with a cellular phone, depicting the molestations.

16 (C) On or about June 12, 2007, the San Diego County District Attorney filed a  
17 41 count Amended Information in the case of *The People of the State of California v. Wayne*  
18 *Albert Bleyle*, Case No. SCD 197496, before the Superior Court of California, County of San  
19 Diego. The charges are as follows:

20 (i) Counts 1 and 2

21 -Penal Code section 288, subdivision (b)(1)

22 -Forcible Lewd Act Upon Child [A.F.]

23 (ii) Count 3

24 -Penal Code section 288, subdivision (b)(1)

25 -Forcible Lewd Act Upon Child [W.L.]

26 (iii) Counts 4 and 5

27 -Penal Code section 288, subdivision (b)(1)

28 -Forcible Lewd Act Upon Child [S.F.]

- 1 (iv) Counts 6 and 7  
2 -Penal Code section 288, subdivision (b)(1)  
3 -Forcible Lewd Act Upon Child [L.V.]  
4 (v) Count 8  
5 -Penal Code section 288, subdivision (b)(1)  
6 -Forcible Lewd Act Upon Child [J.D.]  
7 (vi) Counts 9 through 33  
8 -Penal Code section 311.2, subdivision (b)  
9 -Exhibiting A Minor In Pornography  
10 (vii) Counts 34 through 40  
11 -Penal Code section 311.4, subdivision (c)  
12 -Employment Of Minor To Perform Prohibited Acts [A.F.]  
13 (viii) Count 41  
14 -Penal Code section 311.4, subdivision (c)  
15 -Employment Of Minor To Perform Prohibited Acts [J.D.]  
16 (D) On or about June 12, 2006, respondent was convicted on his own guilty  
17 plea of counts 1 through 8 and 29 through 33. A sentencing hearing is set for July 25, 2007.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Crimes Involving Sexual Misconduct or Attempted Sexual Misconduct)**

20 10. Respondent is further subject to disciplinary action under Code section  
21 3750, as defined by section 3752.6, in that he committed crimes involving sexual misconduct  
22 with his minor patients, as more particularly described in paragraph 13, above, which is  
23 incorporated by reference as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 1. Revoking or suspending Respiratory Care License No. 6855, issued to WAYNE ALBERT BLEYLE, R.C.P.;
- 2. Ordering Wayne Albert Bleyle, R.C.P. to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: July 6, 2007

Original signed by:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant